

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-470

Judge: Bruce R. Cohen

Complainant: Commission on Judicial Conduct

ORDER

The Complainant alleged a superior court judge sent an email to other judges with political implications which did not promote confidence in the judiciary.

The Commission initiated the complaint based on news reports of Maricopa County Superior Court Judge Bruce R. Cohen's conduct. The judge sent out an email on his county email to all of his fellow judges on that bench asking them to stand up against those people who were accusing minorities of being diversity hires. He encouraged his fellow judges to speak out against those accusing minority hires as being unworthy of their hire because they were diversity hires. The email referenced then Vice President Kamala Harris as someone accused of being an unworthy diversity hire.

At the time, the judge was presiding over a high-profile case involving Arizona's "fake electors." One of the attorneys in that case acquired the email and filed a motion for recusal. This motion and the email were made public in the press. The judge subsequently recused himself from the case.

In his response, the judge admitted that he "inserted myself into the discourse, albeit in a private email to my colleagues, I opened myself and the court I represented up to ridicule at a time of great division. Again, I should have known better."

The Commission also considered other cases in which other judges had written emails of a political nature. Those cases resulted in a reprimand, and for parity purposes, the Commission found this case required a reprimand.

The Commission is cognizant of the judge's lengthy and distinguished career, as well as his recent retirement (which was pre-planned before this complaint).

The Commission found that Judge Cohen's conduct violated the following provisions of the Code of Judicial Conduct:

- Rule 1.2 which states, "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and

impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

- Rule 2.3(A) which states, “A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.”

- Rule 2.11(A)(5) which states, “A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances:

- (5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.”

- Rule 4.1(A)(3) which states, A judge or a judicial candidate shall not do any of the following:

- (3) publicly endorse or oppose another candidate for any public office . . .

Accordingly, Judge Bruce R. Cohen is hereby publicly reprimanded for the conduct described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judicial officer’s response, and this order shall be made public as required by Commission Rule 9(a).

Commission members Roger D. Barton, Colleen E. Concannon, and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: April 2, 2025

FOR THE COMMISSION

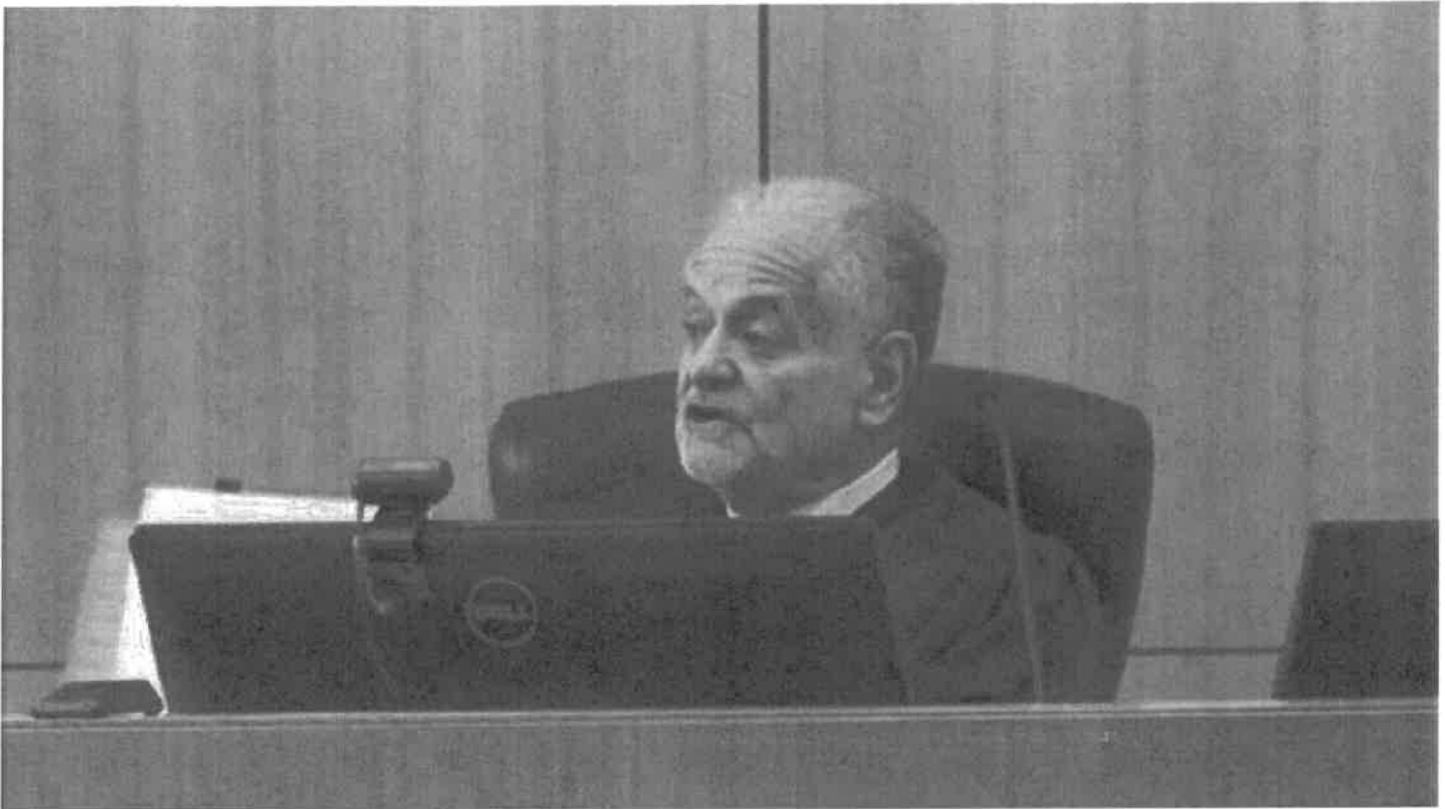
/s/ Christopher P. Staring
Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on April 2, 2025.

Arizona Judge In 2020 Electors Case Demanded Judges Defend Kamala Harris

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2024-470



Maricopa County Superior Court Judge Bruce Cohen

The judge overseeing the 2020 electors case in Arizona demanded other judges in the court defend Kamala Harris.

In emails obtained by Arizona State Speaker Pro Tempore Rep. Travis Grantham, Maricopa County Superior Court Judge Bruce Cohen demanded that all judges and all commissioners — especially those who were white and/or male — defend Kamala Harris and other people of color.

Cohen is the presiding judge over the case against the 2020 electors for President Donald Trump. Those who sided with Trump face felony charges of fraud, forgery, and conspiracy.

Cohen took offense with the rhetoric surrounding the selection of Harris for the Democratic presidential candidate as the “DEI hire” and the questioning of her integrity with claims that she would be promiscuous with generals in the Situation Room.

“It does matter if your chromosomes are made up of ‘XY.’ It matters even more if your skin color is characterized as ‘white’ or Caucasian. We must speak out. We must tell those within our circles of

*influence that this s**t must stop. NOW! We cannot allow our female colleagues to feel as if they stand alone when there are those who may intimate that their ascension was anything other than based upon exceptionalism. We cannot allow our colleagues who identify as being a 'person of color' to stand alone when there are those may claim that their ascension was an 'equity hire' rather than based solely upon exceptionalism. We no longer can stay silent merely because others are exercising their right to free speech — we, too, have that same right and must exercise it."*

Cohen equated Harris' critics to the Nazis, and said that those who refused to stand up for Harris as well as other females and "colleagues who identify as being a 'person of color'" were as bad as those who allowed the evil of the Holocaust to take place.

"I have been reflecting on Martin Niemoller's brilliant post-WWII essay known as 'First they came for...'. While the subject matter of his commentary was one of the most horrific periods in world history, its instruction applies equally to present day events," said Cohen. "When we cannot or do not stand with others, the words of Martin Niemoller are no longer a historic reference to the atrocities of WWII, those words describe the present."

The next day, Cohen sent another email. Instead of demands, however, it contained a brief apology.

"Earlier this week I allowed my passion to cloud my judgment and sent an email using this as my forum," said Cohen. "After reflection, I have come to realize that this was not proper use of this forum. I sincerely apologize to anyone put off or negatively impacted by my lapse of judgment."

The rules of judicial conduct require judges to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Additionally, judicial conduct rules also address political and campaign activities of judges by prohibiting "any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court; or in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office."

In another email sent two days before his demand that all judges and commissioners speak out against criticisms of Harris, Cohen alluded to his presiding over the case against the 2020 electors.

"I am presiding over a case that involves a number of public officials, including some state senators. We had an all-day hearing yesterday and will have the same all day today," said Cohen. "At the end of yesterday's proceedings, one of the state senators approached my courtroom clerk and asked her to validate his parking. Is it possible that we will see parking validation added to the court's allocated budget next year when the legislature passes our next budget and it will somehow be given retroactive application to [this day]?"

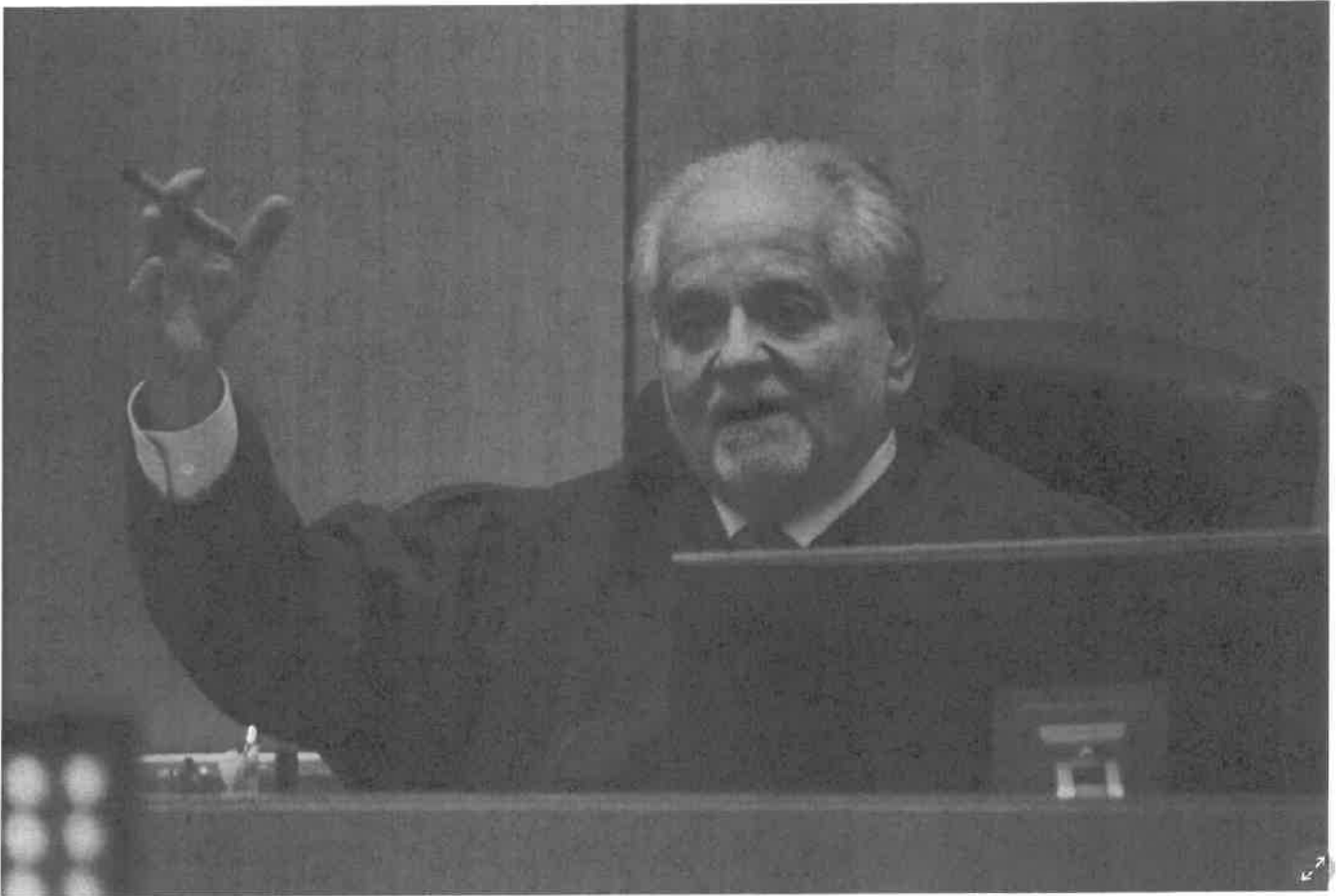
"Our judiciary is contemptable, and the judicial system is broken," one attorney told the Arizona Daily Independent on the condition of anonymity for fear of retaliation. "From the Arizona Supreme Court on down, the judges in Arizona have proven time and time again that they care more about self-preservation than the administration of justice. This judge knew what he did was wrong and should have immediately resigned his position. He obviously understood that what he did was anything but judicious."

"Maybe he is a short-timer and figures 'what the hell, I'll be out of here soon,' but the victims of his bias won't be," stated the attorney. "They are stuck in this broken justice system because of clowns like Cohen and Attorney General Kris Mayes who are willing to weaponize it."

Cohn's term ends in January.

U.S. NEWS

Judge recuses himself in Arizona fake elector case after urging response to attacks on Kamala Harris

BY [JACQUES BILLEAUD](#)

Updated 8:06 PM MST, November 12, 2024

PHOENIX (AP) — A judge recused himself Tuesday from presiding over [Arizona's fake electors case](#) after an email surfaced in which he told fellow judges to speak out against attacks on Democratic Vice President Kamala Harris' campaign for the presidency.

In the Aug. 29 email, Maricopa County Judge Bruce Cohen lamented that he didn't speak out when Harris was called a "DEI hire," believes that white men must speak out against unfair treatment of women, and raised a historical lesson from the Holocaust about the need to speak up when people are attacked. Cohen didn't specify who made the comment regarding Harris.

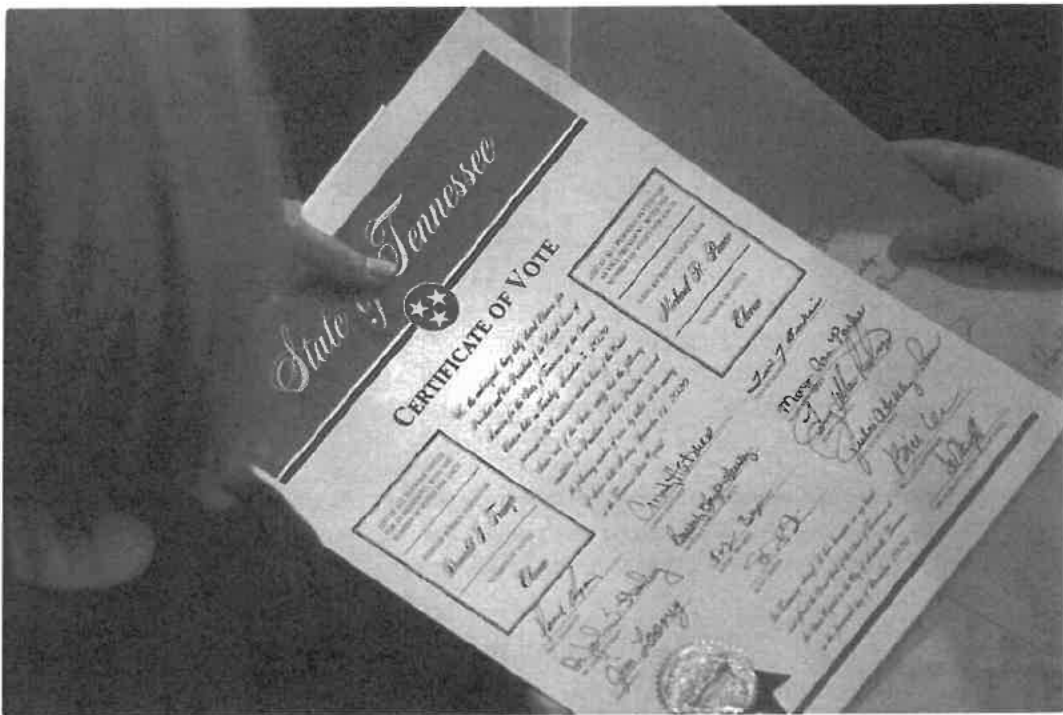
"We cannot allow our colleagues who identify as being a 'person of color' to stand alone when there are those (who) may claim that their ascension was an 'equity hire' rather than based solely upon exceptionalism," the judge told his colleagues in the email.

Cohen later wrote another email telling his fellow judges that he let his passion cloud his views and apologized to anyone affected by his lapse in judgment in using an email forum for judges that was not appropriate for unsolicited comments.

RELATED STORIES



What to expect in Arizona on Election Day



Election certification: Once routine, now politicized in the Trump era



Why AP called Arizona for Trump

Lawyers for Republican state Sen. Jake Hoffman, who faces nine felony charges in the case, sought the judge's removal, arguing Cohen "bears a deep-seated personal political bias that overcame his professional judgment" and that their client has lost confidence in the judge's impartiality.

Hoffman is one of 11 Republicans who submitted a document to Congress falsely declaring that then-President Donald Trump won Arizona in the 2020 election. They include the former state party chair, a 2022 U.S. Senate candidate and two sitting state lawmakers. Two former Trump aides and five lawyers connected to Trump, including [Rudy Giuliani](#), also were charged in the case. All 18 people were charged with charged with forgery, fraud and conspiracy.

"Given the statements the judge made, I think it's appropriate that he recuse himself," Arizona attorney Mark L. Williams, who is representing Giuliani, said after Cohen's decision. "The way I see it, the case against Mr. Giuliani and the other defendants is falling apart and I think the attorney general should just wind down the case and dismiss it."

A spokesperson for Arizona Attorney General Kris Mayes declined to comment on the judge's recusal.

In a court record, Cohen said the original email was a stand for decency and didn't reflect a personal bias, but he recognized that others may view it differently than he intended.

Cohen, who was appointed to the bench by Democratic Gov. Janet Napolitano in 2005, was scheduled to retire in January.

Most of the defendants had asked Cohen to throw out the charges under an Arizona law that bars using baseless legal actions in a bid to silence critics. The law had long offered protections in civil cases but was amended in 2022 by the Republican-led Legislature to cover people facing most criminal charges.

Cohen recused himself before deciding whether to dismiss the case, which will be assigned to another judge.

The defendants argued that Mayes tried to use the charges to silence them for their constitutionally protected speech about the 2020 election and actions taken in response to the race's outcome. They say Mayes campaigned on investigating the fake elector case and had shown a bias against Trump and his supporters.

Prosecutors said the defendants didn't have evidence to back up their retaliation claim and that they had crossed the line from protected speech to fraud. Mayes' office also has said the grand jury that brought the indictment wanted to consider charging Trump, but prosecutors urged them not to.

Two defendants have already resolved their cases.

Former Trump campaign attorney Jenna Ellis, who worked closely with Giuliani, signed a cooperation agreement with prosecutors that led to the dismissal of her charges. Republican activist Loraine Pellegrino also became the first person to be convicted in the Arizona case when she pleaded guilty to a misdemeanor charge and was sentenced to probation.

The remaining defendants have pleaded not guilty to the charges. Trump wasn't charged in Arizona, but the indictment refers to him as an unindicted coconspirator.

Prosecutors in Michigan, Nevada, Georgia and Wisconsin also filed criminal charges related to the fake electors scheme.

Associated Press writer Anita Snow contributed to this report.

JACQUES BILLEAUD

Billeaud is an Associated Press reporter who covers courts and law enforcement in Arizona. He previously covered immigration and the Arizona Legislature.

From: Bruce Cohen (SUP)
Sent: Thursday, August 29, 2024 7:40 AM
To: All Judges;All Commissioners
Subject: A few closing thoughts...

There are 117 shopping days left before Christmas.

And for those of you who may be tiring of my e-mails, there are 123 days remaining where I will have easy access to the court's group e-mail address.

But until I am deleted, I will share my thoughts for whatever it may be worth.

I have been reflecting on Martin Niemöller's brilliant post-WWII essay known as "First they came for..." While the subject matter of his commentary was one of the most horrific periods in world history, its instruction applies equally to present day events.

I did not speak out when I heard earlier this summer a continuous chorus of sentiments about being a "DEI Hire" when our present democrat candidate for president was named. I knew that a demeaning statement like this was not being applied to me. I then listened to a cable news commentator make a statement that if VP Harris is elected, the generals "will have their way with her in the Situation Room." And while I was sickened by that deplorable expression, it did not apply to me. Then, yesterday, I read a post from the Republican candidate for president who made reference to two historic female political figures and made reference to a particular sex act and how it impacted their trajectory. My blood boiled but again it did not apply to me.

But it is time for me to state my piece or be complicit in the depravity.

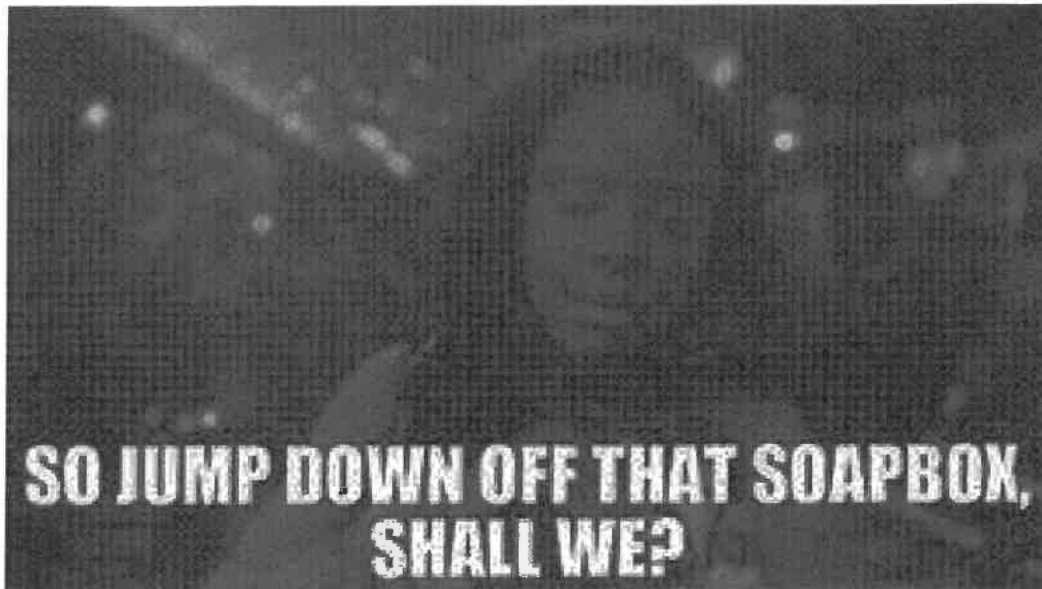
It matters not whether you align with “the left” or “the right.” It matters not whether you are a faith-driven person or an atheist. It matters not whether you are old (me) or young (many of you). But it does matter if your chromosomes are made up of “XY.” It matters even more if your skin color is characterized as “white” or Caucasian.

More than others, we...the white males...must rise to meet the sentiments of Martin Niemöller. We must speak out. We must tell those within our circles of influence that this shit must stop. NOW! We cannot allow our female colleagues to feel as if they stand alone when there are those who may intimate that their ascension was anything other than based upon exceptionalism. We cannot allow our colleagues who identify as being a “person of color” to stand alone when there are those may claim that their ascension was an “equity hire” rather than based solely upon exceptionalism. We no longer can stay silent merely because others are exercising their right to free speech---we, too, have that same right and must exercise it.

I have been quoted in the past as saying that “just because you have the right to say something does not make it right to say it.” This IS NOT RIGHT. And we must make that declaration in the clearest and most unambiguous terms.

I strive to live by the Zulu philosophy of “Ubuntu” (seeing the humanity in others). If we allow these horrific comments that are now seemingly part of normal discourse, we fail at seeing the humanity of others. When we fail to see that, we cannot possibly

stand by others. When we cannot or do not stand with others, the words of Martin Niemöller are no longer a historic reference to the atrocities of WWII, those words describe the present.



Yes...I shall.

Judge Bruce R. Cohen
Maricopa County Superior Court
Criminal Department



Committed to excellence and the principles inherent in the rule of law...
every person, every day, every time.

From: Bruce Cohen (SUP)
Sent: Friday, August 30, 2024 3:01 PM
To: All Judges;All Commissioners
Subject: A Final Closing Thought...

Earlier this week I allowed my passion to cloud my judgment and sent an e mail using this as my forum. After reflection, I have come to realize that this was not proper use of this forum. I sincerely apologize to anyone put off by or negatively impacted by my lapse of judgment.

Judge Bruce R. Cohen
Maricopa County Superior Court
Criminal Department



Committed to excellence and the principles inherent in the rule of law...
every person, every day, every time.

Judge Bruce R. Cohen (ret.)

Resp (Cohen)

1/24/25

Case No. 24-470

24-470

January 24, 2025

RESPONSE TO COMPLAINT

I recently retired after serving as a Judge of the Maricopa County Superior Court for almost 20 years. My career as a judicial officer has been one of the greatest honors of my life. During that tenure, I have strived at all times to live up to the ideals of the court and the standards required of me as a judicial officer. I have always been mindful of the fact that my actions on and off the bench reflected not only on me, but on the court and on an institution that I respect greatly.

I have never been the subject of any adjudicated wrongdoing or any form of disciplinary action. I say this not to mitigate the concerns addressed herein but to ensure that you know how committed I have been to upholding the rule of law and maintaining the integrity of the judicial process.

I have had time to review my actions that began with a private e-mail to my colleagues sent in August of 2024 and resulted in scrutiny from the legal community and from the public. I acknowledge without condition that sending the e-mail was ill-conceived and caused a chain of events that were counter to my goals and aspirations as a superior court judge. I brought question upon myself and the court and I must fully shoulder the resulting concerns that were created. I will therefore not be seeking to excuse my actions and, as I hope you will conclude, am taking full responsibility for the events that followed.

I intend to provide some context and my thoughts about any potential code violations. If I do not address an area of concern, I stand ready to supplement this response upon request.

CONTEXT

The judiciary has been under scrutiny for some time, as have other public institutions. It has therefore been incumbent upon members of the judiciary to go above and beyond in meeting the ideals of the court so as to allay concerns, real or perceived, that members of the community may have about this grand institution.

In the weeks leading up to my sending of the e-mail dated August 29, 2024, there were numerous verbal attacks against public servants who dedicated their careers and lives to public service. Some of those comments focused on gender and race. That raised concerns for me about how colleagues of mine who might have been in a similar situation were being viewed, including whether their ascension was seen to be anything other than merit-based. I chose to be an ally and to step up. I did so in the form of the e-mail that you have in your possession.

It is important to note that the e-mail was private. The fact that it was sent to numerous recipients does not alter that fact. No member of the public had access to nor were they recipients of the e-mail. No staff or employees of the court received the e-mail. It went only to my colleagues in their capacity as judicial officers.

The e-mail speaks for itself, whether viewed positively or negatively. While the subject matter involved political figures, I did not in any way advocate for one political side or the other. Rather, it was a call for decency. Misguided as it turned out to be, it was a call to action among my peers for us to support each other, stand up for each other, and to ensure that none of us stand alone.

While I knew that some of my colleagues would wholeheartedly support my sentiments, I did not take the time to consider how others might interpret my comments. And some did not take kindly to what they understandably perceived to be me lecturing them or calling them out for something they did not do. That understanding on my part came a few hours after I sent out the e-mail. And when it did, I sent out a follow-up e-mail the very next day to each and every one of the recipients. I wrote, in part:

“...I allowed my passion to cloud my judgment and sent an e-mail using this as my forum. Upon reflection, I have come to realize that this was not proper use of this forum [referring to use of each judicial officer’s court e-mail address]. I sincerely apologize to anyone put off by or negatively impacted by my lapse in judgment.”

What occurred thereafter was something I did not but perhaps should have expected. Someone among my colleagues who received this private group message shared it with someone outside of our bench and the e-mail eventually made its way to a member of the legislature. That person then shared it with a media site who characterized my e-mail with the following headline:

“Arizona Judge in 2020 Elector’s Case Demanded Judges Defend Kamala Harris.”

Respectfully, I reject that characterization. But because I inserted myself into the discourse, albeit in a private e-mail to colleagues, I opened myself and the court I represented up to ridicule at a time of great division. Again, I should have known better.

The first article was published in November, 2024. At that time, I was presiding over a high-profile and political-charged case. That very same day and on my own motion, I set a hearing on that case for the following Wednesday so that I could address the contents of the article with the attorneys involved in the high-profile case over which I was presiding. I was prepared to hear any concerns from the parties and take appropriate action thereafter. Thereafter, I received motions for me to recuse myself from the case.

Notwithstanding the fact that I had no intended political message associated with my e-mail and therefore no bias that would require me to recuse from this particular case, I knew that

the manner in which my e-mail was being portrayed in the media raised significant concerns about the appearance of impropriety. I vacated the hearing and immediately issued the following order:

NOTICE OF RECUSAL

HEARINGS VACATED

On November 8, 2024, this court was advised about a report on an internet site relating to e-mails sent by this judicial officer to other judicial officers. Immediately thereafter, this court scheduled a Status Conference to be conducted on November 13, 2024 to address the contents of the posting.

On November 12, 2024 and before the status conference could be conducted, the court received a motion filed by Defendant Hoffman requesting that this court recuse itself from presiding over these proceedings. With further comment, this court is electing to honor that request.

Of primary focus is an e-mail sent by this judicial officer solely to other judicial officers in late August, 2024. The focus of that communication related to decency and respect. And advocating for both decency and respect is not an expression of political belief or views, it is about our society. To suggest otherwise is perhaps reflective of how polarized we have become.

This court is comprised of a significant percentage of female judicial officers as well as a share of judicial officers who identify as part of a minority group. Each of those judicial officers have ascended to their current positions through merit and because of exceptionalism, not based upon favor. Directed solely to fellow colleagues, this judicial officer expressed support for the exceptionalism of the judicial officers of Maricopa County and was a stand for decency and respect. What was contained in the e-mail is not reflective of bias. As noted in the subject e-mail, the same cry for decency and respect would have been made about disparaging comments from either political sphere. That said, within hours after sending the August e-mail solely to other judicial officers and not in any public forum, an apology was sent out to those same judicial officers. The apology focused on the use of the “all judges” forum via e-mail. That was the error in judgment as that forum was not the place for unsolicited comments.

This court remains confident in and proud of the fact that during an almost 20-year judicial career, this court has been rooted in fundamental fairness, free from bias. But this court is also mindful of the appearances the subject e-mail may have created for those who have interpreted the communication differently than intended. Out of a commitment to justice, even the appearance of bias cannot be allowed to undermine the fundamental fairness that is extended by the court to all who come before it. It is for that reason alone that this court is recusing itself from all further proceedings in this matter.

IT IS ORDERED referring this matter to the Presiding Judge of the Criminal Department for reassignment.

IT IS FURTHER ORDERED vacating the Status Conference set for November 13, 2024 and the Hearing set for November 21, 2024 in this division. Upon reassignment, the newly assigned judge shall work with counsel to develop an appropriate pretrial and hearing schedule of the matters that are now before the court.

ANALYSIS OF CODE PROVISIONS

I sought from Brian Bohan some direction as to what sections of the Code might be implicated in this circumstance. He cited sections 1.2, 2.3, 2.11 and 4.7. I will therefore focus on these sections but can supplement my response if any other concerns remain unanswered.

Section 1.2

Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

As I asserted above, the e-mail in question was not directed to the public, nor was it published to any member of the public. It was a private e-mail sent to equally situated colleagues. And while I now realize that I lost control over the privacy element when I sent it out to others, I did not at the time appreciate that one of my colleagues would disseminate it beyond its intended audience. I say that merely to shed light on my intent but not to shirk responsibility for the outcome.

I also want to suggest that I met the principles of Section 1.2 through my remedial actions. As soon as this became public, I took the steps required to ascertain the impact and then recused myself from further proceedings. And while I do not look to the media to determine the efficacy of my actions, I do cite you to an opinion piece written by EJ Montini of the Arizona Republic in December, 2024. He commended me for my decision to recuse myself and for valuing the required trust that the public must have in our institutions. It demonstrates that my remedial actions in fact promoted public confidence, as the code section requires.

Rule 2.3

Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

This is where the issue of intent versus impact is implicated. I was focused on decency and respect, no matter the context. However, the impact of my words created questions as to whether I was politically motivated. Again, I take responsibility for that outcome, despite my intent otherwise.

The question thus becomes “by what standard do we assess whether my words manifested bias or prejudice?” From my subjective view, they did not. From the subjective view of others, they did. But subjectivity aside, did the content of the e-mail objectively manifest bias or prejudice?

In deciding the issue, isn’t it also important to go back to context? I did not make any public proclamations. I sent a private e-mail among colleagues. Even if on some measure my e-mail could be seen as reflecting a political bias, I did not issue those comments in the performance of my judicial duties, such as through a written ruling, a comment in open court, or through insertion into a public forum. Perhaps that is a distinction without a difference---I will leave that to you to decide.

No matter the conclusion reached, I acknowledge that these were my words and I must assume all responsibility for the outcome, including one that I had not anticipated. Put simply, “this is on me.” But accepting responsibility for the outcome is not the functional equivalent of admitting a code violation, which I must respectfully deny.

Rule 2.11

Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned...

I have a very brief response. My impartiality was reasonably questioned in light of the article that was published. Once that arose, I immediately disqualified myself from the proceedings (see “Context” section above), as is required under the code. I would have done that, regardless of whether the code required that of me as the integrity of the process is paramount.

RULE 4.1.

Political and Campaign Activities of Judges and Judicial Candidates in General

(A) A judge or a judicial candidate shall not do any of the following:

(1) act as a leader in, or hold an office in, a political organization;

(2) make speeches on behalf of a political organization or another candidate for public office;

(3) publicly endorse or oppose another candidate for any public office;

(4) solicit funds for or pay an assessment to a political organization or candidate, make contributions to any candidate or political organization in excess of the amounts permitted by law, or make total contributions in excess of fifty percent of the cumulative total permitted by law. See, e.g., A.R.S. § 16-905. (5) actively take part in any political campaign other than his or her own campaign for election, reelection or retention in office;

(6) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;

(7) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others, except as provided by law;

(8) use court staff, facilities, or other court resources in a campaign for judicial office;

(9) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court; or

(10) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office

I have carefully reviewed this code provision in an attempt to ascertain which subsections could be implicated. I have concluded that the following could apply, but if I missed something, please allow me to supplement my response.

Subsection 3

My comments could have been interpreted to favor or oppose a particular political party. I say that not as an admission but in recognition of how others have perhaps concluded. In any event, the e-mail was not a “public” endorsement; it was a private e-mail sent to colleagues and became public upon the actions of someone else. Again, this is not an excuse. But the code prohibits a public endorsement, which I did not do.

Subsection 5

My comments could have been interpreted as taking part in a political campaign to the extent it may have mistakenly been viewed as supporting or opposing one side or the other. But the code prohibits me from “actively taking part” in a political campaign, which I clearly did not do.

Subsection 8

While I used a court resource (the court e-mail system) to send the message, I did not do so to campaign for judicial office, a qualifier under this code section.

Subsection 9

This is perhaps the most relevant subsection of this part of the code. I have spent considerable time reflecting on this provision: “...*make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.*” I maintain that my e-mail did not create such an environment, but I accept that others may have reached a different conclusion

The critical question before you is whether I could have “reasonably expected” my words to cast doubt over the fairness of the proceedings before me. Once again, I go back to the fact that this was a private e-mail to colleagues. I raise the question of whether a private communication should have been reasonably expected to become public. But beyond that, the standard that should apply is whether a writing about decency and respect could be reasonably interpreted to be a political bias.

I maintain that it did not. But in the current environment where everything is viewed through a polarized lens, the answer is perhaps “yes.” Unfortunately, and out of naivete on my part, I did not come to realize that until after the fact.

In any event, is this a basis for disciplinary action? I place my trust in you to address this question.

Conclusion

It troubles me that the tail end of my judicial career is met with a complaint of this nature. And whatever you decide, I assure you that my self-recriminations far exceed any disciplinary action that may be taken. Even though I maintain that there was no code violation or need for disciplinary actions, I let the court down, I let my colleagues down and I let myself down.

I have unwavering trust in our processes. I will therefore trust that you will come to a just conclusion of whether disciplinary action is warranted under these circumstances.

Bruce R. Cohen

Judge Bruce R. Cohen (ret.)

Maricopa County Superior Court

Judge Bruce R. Cohen (ret.)

Case No. 24-470

April 28, 2025

Judge MR

5/01/25

24-470

MOTION FOR RECONSIDERATION

I am in receipt of the Order issued by the Commission on April 2, 2025. Respectfully, I ask that the Commission reconsider the sanction of a *public reprimand*.

Almost 20 years ago, I joined the Bench because of my dedication to serve the public's interest and my time on the Bench was spent doing just that. My e-mail, though short-sighted in hindsight, was about the need for decency in our public discourse, not about politics. Even so, when I realized that my e-mail had become misunderstood, I recused myself from the case to avoid even the appearance of impropriety. When a complaint was filed by the Commission, I took and continue to take responsibility for my actions (as was evident in my response to the complaint).

Prefatory Comment

I respect that the Commission considered my response and arrived at a decision. But in my response to the complaint, I did not address the sanction the Commission might impose if I were found to be in violation of the Code of Judicial Conduct. Therefore, this is my first opportunity to focus not on the alleged violation, but rather, on the action taken after a violation has been found to have occurred.

I begin by referencing the stated "Scope" of the Code. It provides, in pertinent part, as follows:

Whether discipline should be imposed should be determined through a reasonable and reasoned application of the rules and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

That leads me to address four things: the significance of the violation, the absence of any pattern of improper activity or previous violations on my part, and the effect on the judicial system and others.

Seriousness of the Transgression and Circumstances that Existed

I sent an e-mail to my judicial colleagues. The e-mail was neither intended for nor directed to a public setting or forum. I did not send it to anyone for whom I may have been in a perceived

superior position within the court. The email became public because one of my colleagues decided to share it with some member of the public. True enough, emails can be forwarded, though I did not expect one of my colleagues to do so and to do so after the fact, where its context would be lost. In that regard, the e-mail was about the need for decency and civil discourse. It was not about who should be elected.

I acknowledge I should have chosen my words more carefully so the actual subject matter of the e-mail would not be misunderstood. But when considered from this perspective, my transgression was far less than when other judicial officers were subjected to a public reprimand for social media posts or emails to staff. Recognizing that distinction is important, lest judges find themselves constrained even when discussing matters such as civility just among themselves.

I believe that the actual subject matter of the e-mail establishes that this was a far less serious transgression than occurred when other judicial officers were subjected to a public reprimand for social media posts.

In looking at the circumstances surrounding the e-mail, I sought to show support for colleagues who potentially were the subject of demeaning commentary relating to their qualifications and their appointments to the bench (based upon race or gender). I spoke out via the subject e-mail, again only sent to my judicial colleagues. I made it clear in the e-mail that it mattered not which political party was involved as my call for decency would be the same regardless of the party affiliation of those involved. And discussing decency and civility is vital to ensuring an independent judiciary.

Pattern of Improper Activity/Previous Violations

The Commission noted that I have had a “lengthy and distinguished career.” I will add to that the fact that I have never been the subject of any disciplinary action, whether as a practicing attorney for 24 years or as a judicial officer for almost 20 years. And though I do not state that as a badge of honor (since nothing less should be expected from an attorney or judicial officer), I ask members of the Commission consider this history in the context of the kind of work I did during my almost 20-year tenure on the bench.

During my service as a judge, I voluntarily spent 10 full years on a family court assignment, with four of those years in a leadership role as Presiding Judge of the Family Court Department. Family court is among the most challenging of judicial assignments. Additionally, during my time with the Maricopa County Superior Court, I never shied away from difficult cases. In fact, quite the opposite, I was often asked to take on the more challenging cases and readily agreed to do so. The fact that I have not had any prior code violations is noteworthy in the context of the work I did on the Bench.

As the above shows, there has been no pattern of improper activity or previous violations. The subject matter of this complaint was an isolated event.

Effect of the Improper Conduct

The “electors” case was assigned to me; I did not request the case. Had I thought there was any bias on my part, I would have declined the assignment at the outset.

First, immediately upon the e-mail becoming the subject of media coverage, I recused myself from the “electors” case. I maintained then and again now that there was no actual bias or prejudice on my part that would be relevant to that particular case. But in honoring the need for the public to have faith in the judiciary, just the appearance of impropriety was enough for me to make the decision to recuse. Since my impartiality could have been reasonably questioned, I complied with the letter and spirit of Rule 2.11 of the Code.

Second, I have since retired from the Bench. While my retirement was pre-planned (notice of which was sent to the Chief Justice months before I was assigned the “electors” case), the fact that I am no longer a judge minimizes any possible effect my conduct could have on the “judicial system and others.”

Other Relevant Factors

I have addressed directly the Code’s framework regarding disciplinary decisions. There are, however, a few other factors that I would ask to be considered.

Equivalent Treatment

The Commission included the following in its order:

The Commission also considered other cases in which other judges had written emails of a political nature. Those cases resulted in a reprimand, and for parity purposes, the Commission found this case required a reprimand.

Having served as a judicial officer, I appreciate the need for consistent treatment in applying rules and codes, including when it comes to sanctions or punishment. Another judge who was recently the subject of a public reprimand used a public-facing social media forum (Facebook or its equivalent) to express strident political views about events in the Middle East. She included harsh and disparaging remarks filled with vitriol. In that same forum, she had photos of herself as a judge, including some taken in her robe from within the courtroom. Therefore, she established a direct *public* link between her views and her role as a judicial officer. Lastly and of significant consequence, she included links on her Facebook page to polarizing videos that were filled with antisemitic rhetoric.

Please compare and contrast this to what I communicated:

- I did not use a publicly-facing forum or easily-accessed social media site. While e-mails sent using the court e-mail system are technically public, sending them only to my judicial colleagues did not place the e-mail into a public forum.

- My communication focused on the need for decency, not on espousing a political view or taking sides in a complicated crisis occurring in the Middle East.

On its surface, one may conclude that since both incidents involved communications of a political nature, similar sanctions should apply. However, I urge you to look into the vast differences between the underlying conduct and consider that those differences justify disparate treatment of the two complaints.

Unintended Consequences

There is another factor that I am asking the members of the Commission to consider. I have a sound basis to fear that a public reprimand will continue to fuel polarized voices and result in negative consequences that far exceed what is intended by the Commission in issuing a public reprimand.

In November 2024, a few articles were published that mischaracterized my e-mail. They claimed I had *demand*ed judicial officers to support Kamala Harris rather than what I wrote about, which was the need for decency in our public discourse. The misleading version went viral and replaced my actual words and communication. I was publicly scorned and demeaned. It led some individuals to threaten violence against me, suggesting that I should be “lynched” or eliminated.

The story will again come to light if there is a *public* reprimand. I have reason to believe that those with extreme opinions and views will use my public reprimand as justification for taking action against me personally or directed at other judicial officers. In serving the public and the need for maintaining the integrity of the judiciary, the potential for this unintended consequence should outweigh whatever goal is served by making this a *public* reprimand.

Closing Comment

I would be remiss not to mention how devastated I am about this entire situation. My well-intended but yet ill-conceived e-mail caused me to be the subject of ridicule during the last weeks of my judicial career, and did not reflect well on the court. For that, I have taken complete responsibility, even though it became public *only* because of a decision made by a colleague to violate my trust and pass it on to a third party rather than to confront me about what I wrote.

I am asking for some grace in not making public the sanction that is being imposed. With the information and explanation above, I hope the Commission will modify its order and impose either an advisory or warning as a sanction.

I close with the same thoughts as I set forth in my response to the complaint: I have unwavering faith in our processes. I will therefore trust that you will come to a just conclusion of whether a public reprimand is warranted under these circumstances.

Bruce R. Cohen

Judge Bruce R. Cohen (ret.)

Copies of this document were delivered on May 5, 2025, via electronic mail, to:

Hon. Bruce R. Cohen (Ret.), Respondent
Maricopa County Superior Court

Brian A. Bohan, Disciplinary Counsel

By: /s/ Kim Welch
Kim Welch, Commission Clerk

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Arizona Commission on Judicial Conduct
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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning)	
)	Case No. 24-470
Bruce R. Cohen, Judge)	
Maricopa County Superior Court)	RESPONSE TO JUDGE'S
)	MOTION FOR
Respondent)	RECONSIDERATION
)	

On April 2, 2025, the Commission on Judicial Conduct (Commission) publicly reprimanded Judge Bruce R. Cohen (Respondent) for violations of the Arizona Code of Judicial Conduct (Code). Respondent received an extension of time to file a Motion for Reconsideration, which was filed on May 1, 2025. Undersigned submits this response as directed pursuant to Commission Rule 23(b), respectfully requesting that the Commission grant the motion.

**THE COMMISSION FOUND FOR PARITY PURPOSES, THE CASE
REQUIRED A REPRIMAND**

The Commission considered all relevant information and found that Respondent had violated the Code for the conduct set forth in the reprimand order. The Commission issued the reprimand order because Judge Cohen sent an email to his fellow judges on that bench asking them to stand up against those people who were

accusing minorities of being diversity hires. He encouraged his fellow judges to speak out against those accusing minority hires as being unworthy of their hire because they were diversity hires. The email referenced then Vice President Kamala Harris as someone accused of being an unworthy diversity hire.

At the time, the judge was presiding over a high-profile case involving Arizona's "fake electors." One of the attorneys in that case acquired the email and filed a motion for recusal. This motion and the email were made public in the press. The judge subsequently recused himself from the case.

In his response, the judge admitted that he "inserted myself into the discourse, albeit in a private email to my colleagues, I opened myself and the court I represented up to ridicule at a time of great division. Again, I should have known better."

The Commission in its order for reprimand stated, "The Commission also considered other cases in which other judges had written emails of a political nature. Those cases resulted in a reprimand, and for parity purposes, the Commission found this case required a reprimand."

One of the cases considered involved a reprimand for social media posts discussing the political situation in the Middle East. Those posts were to a collection of "friends" on social media, including some judicial officers, and the postings also included links to other sites which were partisan in their political message. The finding of a reprimand for parity purposes is a legitimate resolution. Although for reasons set forth below, undersigned believes this matter is more appropriately mitigated to a warning.

THE FACTORS SUPPORT A REDUCTION TO A WARNING

The Commission also issued a dismissal with a warning to a court of appeals judge when that judge reposted a social media post critical of a political candidate. There, as in this case, that judge quickly realized his error. In that case, he was able to take down the post a very short time after it was posted. Thus, there is precedent for a dismissal with a warning by the Commission for posts involving politics.

Factors Supporting and Not Supporting a Sanction

The Scope section of the Code sets forth several factors for the Commission to consider in determining whether a sanction is appropriate in a particular case. These factors are: 1) the seriousness of the transgressions, 2) the facts and circumstances existing at the time of the transgression, 3) the extent of any pattern of improper activity or previous violations, and 4) the effect of the improper activity upon the judicial system or others. On balance, these factors do not support the issuance of the reprimand.

First, the transgression itself is relatively minor. As a senior judge, Judge Cohen took it upon himself to share his alarm about discriminatory behavior to other judges. As Maricopa County has a large bench, email is not an unrealistic means of sharing with other members of the bench. It should be noted that Judge Cohen has long been sharing his thoughts with the colleagues on his bench. Whether it is the place for one judge to share his personal wisdom with the rest of the bench is debatable. But it alone would not rise to the level of a Code violation. Additionally, there is an argument that if a senior judge on the bench cannot speak out against a perceived injustice to

members of his bench, by addressing the other members of his bench, then who could? The message itself, is that if you do not speak out in the defense of others, no one may be left to speak out in defense of you. The Code itself encourages community involvement, and Rule 2.3 (C) requires a judge to require lawyers “to refrain from manifesting bias or prejudice ... against others.” Judge Cohen saying members of the bench need to protect minority members of the bench from being called unqualified is not a bad message.

This call to arms may have resulted from an unstated issue. Culturally, as a white Jewish male, Judge Cohen is in a unique position in our society in that he is both a member of the majority and is simultaneously also a member of the minority in ways that most Americans are not. This is not an attempt to make a socio-cultural statement, other than Judge Cohen may be able to provide an insight that many others may not naturally perceive.

It should also be noted that Judge Cohen sent a follow-up email a day later apologizing for his statements and stated he realized that was not the proper use of this forum.

Second, the facts and circumstances existing at the time of the transgression were not minor. Judge Cohen’s email encouraged others to stand up against allegations that minority candidates are undeserving of their positions and specifically mentioned Kamala Harris, Trump’s opponent, as an example. Judge Cohen was presiding over the “Fake Electors” case, which was the highest profile political case in the state at the time. When the email was discovered, a motion to recuse Judge Cohen was filed and

news articles followed. Judge Cohen did recuse himself from the case, but the sensationalized version of the email was already in the newspapers. This did not promote public confidence in the impartiality of the judiciary.

Third, the extent of any pattern of improper activity or previous violations support no sanction. As Judge Cohen points out, he spent 20 years as a judicial officer and spent 10 years on the family law rotation, a difficult area, and has never had any discipline until now. He has contributed to the bench beyond just presiding over cases and appears to have had a distinguished career on the bench.

Finally, fourth, the effect of the improper activity upon the judicial system or others leans slightly to a lower sanction. While this incident made a sudden unfavorable splash in the media, Judge Cohen recused himself and the case was reassigned. The parties have again sought to force the recusal of another judge, this time on an appellate panel. That motion was recently denied.

There is an additional argument that there is a distinction between this case and the other case involving social media. Here, Judge Cohen sent his email only to his colleagues on the bench, not to a forum which included members of the public. While it was foreseeable that the email would go beyond the judges, that was not the intent. Also, while both statements have a political nature, one was a call to protect fellow members of the bench while the other was commentary on an international issue.

Finally, Judge Cohen asks the Commission to consider not making the reprimand public, as he has already received threats of violence, and he does not want

the story of this case to be renewed, as the prior articles mischaracterized his emails the first time.

These factors support a modification in the order to a Dismissal with a Warning.

Aggravating and Mitigating Factors

Rule 19 of the Commission Rules sets forth 10 aggravating and mitigating factors for the Commission to also consider.

Nature, Extent and Frequency of the Misconduct: Respondent's conduct is an isolated incident in 24 years of service. This is a mitigating factor.

Judge's Experience and Length of Service on the Bench: Respondent served 24 years as a judicial officer and was counting down retirement when the email was sent. While one can argue that this experience should have caused him to not send the email, his effort to leave a legacy of decency and his call to speak out against discrimination are deemed a mitigating factor,

Whether the Conduct Occurred in the Judge's Official Capacity or Private Life: The conduct occurred in Respondent's official capacity, and undersigned deems this an aggravating factor.

Nature and Extent to Which the Acts of Misconduct Injured Other Persons or Respect for the Judiciary: Respondent's conduct tarnished the public confidence in the impartiality of the judiciary in a high-profile case. This is an aggravating factor.

Whether and to What Extent the Judge Exploited His or Her Position for Improper Purposes: Respondent used his position to encourage others to stand up for those on the bench who are targeted as unqualified, simply based upon being the

member of a minority group. While it is debatable whether this is the proper place for a senior judge, and whether he should see the consequences of such actions, he uses his position selflessly, for a call to protect those who may not be able to protect themselves. Undersigned deems this a mitigating factor.

Whether the Judge has Recognized and Acknowledged the Wrongful Nature of the Conduct and Manifested an Effort to Change or Reform the Conduct: Respondent sent an email the next day, apologizing for his email, showing immediate recognition of his mistake. Moreover, Respondent's written response showed the clarity of a complete understanding of his actions and its consequences, and his responsibility for his actions, even though his message has been manipulated by others. Because he is already retired, any efforts to reform are inapplicable. Undersigned finds this to be a strong mitigating factor.

Whether There Has Been Prior Disciplinary Action Concerning the Judge, and if so, its Remoteness and Relevance to the Present Proceeding: Respondent has never received any discipline despite working in family law for a decade. This is a strong mitigating factor.

Whether the Judge Complied with Prior Discipline or Requested and Complied with a Formal Ethics Advisory Opinion: Undersigned does not deem this factor as applicable.

Whether the Judge Cooperated Fully and Honestly with the Commission in the Proceeding: Respondent cooperated fully with the Commission and was honest, and accurate in his assessment of the situation in his response. Even though his retirement

makes this reprimand relatively inconsequential, Respondent is taking the matter seriously and treating the process with the utmost respect. This is a mitigating factor, although the Code itself requires judges to cooperate with the Commission, and undersigned is not sure why this is considered a mitigating factor under the rules.

Whether the Judge was Suffering from Personal or Emotional Problems, or from Physical or Mental Disability or Impairment at the Time of the Misconduct: This was not raised as a defense by Respondent, and undersigned does not deem this factor applicable to this case.

While the mitigating factors clearly outweigh the aggravating factors numerically, the Commission is free to assign whatever weight it chooses to the factors. Given the nature of the conduct, Respondent's experience, Respondent's complete lack of disciplinary history, despite the injury to the public perception of the judiciary, undersigned argues that the overall balance is in favor of modifying the sanction.

CONCLUSION

For the reasons set forth above, undersigned requests the Commission reassess the prior order of the imposition of the public reprimand issued on October 28, 2024. Given that the factors to be assessed, as spelled out in Scope section of the Code, slant towards a lesser sanction, and the mitigating factors outweigh the aggravating factors, Dismissal with a Warning appears to be the appropriate sanction.

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Dated this 20th day of May 2025.

COMMISSION ON JUDICIAL CONDUCT

Brian Bohan (May 20, 2025 12:09 PDT)

Brian A. Bohan
Disciplinary Counsel

A copy of this document was served electronically to Hon. Bruce R. Cohen (Ret.) at
on May 20, 2025.

By: /s/ Kim Welch
Kim Welch, Commission Clerk

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-470

Judge: Bruce R. Cohen

Complainant: Commission on Judicial Conduct

**ORDER DENYING RESPONDENT JUDGE'S
MOTION FOR RECONSIDERATION**

The respondent judicial officer filed a Motion for Reconsideration of the Commission's reprimand decision as set forth in its previous order. Pursuant to Commission Policy 23, disciplinary counsel was requested to file a response to the motion, and did so.

On June 20, 2025, the Commission denied the Motion for Reconsideration. As provided in Commission Policy 23, the respondent judicial officer's Motion for Reconsideration, disciplinary counsel's response, and this Order denying the Motion for Reconsideration shall be made a part of the record that is posted to the Commission's website with the other public documents (the Complaint, the judicial officer's response and the Reprimand Order).

Commission members Roger D. Barton and Colleen E. Concannon did not participate in the consideration of this matter.

Dated: July 23, 2025

FOR THE COMMISSION

/s/ Christopher P. Staring
Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on July 23, 2025.